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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

EPIC GAMES, INC.

Case No. 4:20-cv-05640-YGR-TSH

Plaintiff, Counter-defendant

**DECLARATION OF MARK A. PERRY IN  
SUPPORT OF APPLE INC.'S STATEMENT  
IN SUPPORT OF ADMINISTRATIVE  
MOTION TO SEAL**

v.

APPLE INC.,

The Honorable Yvonne Gonzalez Rogers

Defendant, Counterclaimant

1 I, Mark A. Perry, hereby declare as follows:

2       1. I am an attorney licensed to practice in the State of California, and a member of the Bar  
 3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple  
 4 Inc. ("Apple") in this case. I am familiar with Apple's treatment of highly proprietary and confidential  
 5 information based on my personal experience representing Apple. I have personal knowledge of the  
 6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration  
 7 in support of Apple's Statement in Support of Administrative Motion to Seal.<sup>1</sup>

8       2. I am aware that the law of this Circuit allows information to be filed under seal for good  
 9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where  
 10 documents include a company's trade secrets, internal codenames, confidential research and  
 11 development, personally identifiable information, or other commercially sensitive information. I  
 12 understand that this Court has broad latitude to prevent the public disclosure of these categories of  
 13 commercially sensitive information.

14      3. Apple operates in an intensely competitive environment. Apple has serious and  
 15 legitimate concerns that competitors will be quick to capitalize on any release of Apple's highly sensitive  
 16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect  
 17 the confidentiality of its information.

18      4. Apple has carefully reviewed Epic Games, Inc.'s Administrative Motion to Consider  
 19 Whether Another Party's Material Should Be Sealed Pursuant to Civil Local Rule 79-5 ("Epic's  
 20 Motion") (Dkt. 1304), and now proposes to partially seal information therein that, if disclosed, could  
 21 harm Apple's competitive business interests and reveal personally identifiable information.

22      5. Apple seeks to partially seal Epic's Motion for Relief from a Nondispositive Pretrial  
 23 Order of a Magistrate Judge (Dkt. 1305) ("Epic's Motion for Relief") and Exhibit A to Epic's Motion

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25      26      27      28      <sup>1</sup> Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. See,  
*e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,  
 No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,  
 No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-  
 00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple  
 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

1 for Relief (“Exhibit A”). Epic’s Motion for Relief and Exhibit A contain competitively sensitive, non-  
 2 public information regarding Apple’s engagement of outside counsel and consultants in connection with  
 3 Apple’s press and communications legal strategy. Public disclosure would reveal Apple’s internal  
 4 business and legal decision-making, which could be used by competitors to gain an unfair competitive  
 5 advantage over Apple. Exhibit A also contains personally identifiable information in the form of email  
 6 addresses of Apple employees. Apple has narrowly-tailored its sealing request as to maximize the  
 7 public’s access to court documents without jeopardizing Apple’s business interests. The remainders of  
 8 Epic’s Motion for Relief and Exhibit A remain unredacted.

9       6. Below is a chart detailing the portions of the documents sealable for the reasons explained  
 10 herein, as well as in Apple’s statement.

| <b>Portion of Document Sought to be Sealed</b> | <b>Document Title</b>      | <b>Reason to Seal</b>  |
|--|----------------------------|--|
| Redacted outside counsel/consultants           | Epic’s Motion for Relief   | Reflects non-public Apple legal strategy   |
| Redacted email addresses                       | Exhibit A to Epic’s Motion | Reflects non-public Apple legal strategy and personally identifiable information |

18 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and  
 19 correct. Executed this 11th day of March 2025, in Washington, D.C.

21 Dated: March 11, 2025

Respectfully submitted,

23 By: /s/ Mark A. Perry

24 Mark A. Perry